

Item No.19

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

03.07.2023
Ct-24

WPA 6426 of 2022
Priyaranjan Biswas

v.

The State of West Bengal & Ors.

Mr. Ratul Biswas
Mr. Kaushik Chowdhury
... for the petitioner.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
... for the Bally Municipality.

Mr. Soumitra Bandyopadhyay
Ms. Suchana Banerjee
... for the State respondents.

Mr. Ankit Sureka
Mr. Sobhan Majumder
... for HMC.

Mr. Sandip Kumar Bhattacharyya
Mr. Suman Basu
... for the respondent no. 8.

Leave granted to the learned advocate-on-record of the petitioner to implead the Howrah Municipal Corporation as party respondent and to amend the description of the respondent no. 3 in the cause title of the writ petition.

The formality of serving a copy of the writ petition on the added respondent stands dispensed with as the Howrah Municipal Corporation is already represented by a learned advocate.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondent at premises no. 20/1, Bhujanga Dhar Road, Police Station-Liluah, District-Howrah presently under the jurisdiction of the Bally Municipality.

The petitioner approached this Court on an earlier occasion and the Court by order dated September 24, 2019 passed in WP No. 17101(W) of 2019 directed the Howrah Municipal Corporation to initiate proceeding under Section 177 of the Howrah Municipal Corporation Act, 1980 and complete the same within a period of six weeks. Time limit for compliance of the direction passed by the Court expired long ago.

In the meantime, Bally Municipality was bifurcated from the Howrah Municipal Corporation and the Bally Municipality is presently being run and administered by the Administrator.

It appears that at present steps are to be taken by the Bally Municipality to address the issue of unauthorized construction of the subject premises.

An objection has been filed on behalf of the petitioner before the Bally Municipality and the same is pending consideration.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 5, the Sub-Divisional Officer and Administrator, Bally Municipality to consider

and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The parties are directed to render all assistance to the Administrator of the Municipality including production of the sanctioned plan at the time of consideration of the objection filed on behalf of the petitioner. The Administrator of the Municipality shall also take into consideration the counter complaint lodged by the private respondent alleging unauthorized

construction at the instance of the petitioner in the selfsame premises.

The petitioner is directed to forward a copy of the representation dated March 25, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)